

CRM-M-19533-2023

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-19533-2023
Reserved on: 18.09.2024
Decided on: 27.09.2024

Rakshanda Sharma

...Petitioner

Versus

Bhvik Tiles

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manu Rattan, Advocate for the petitioner.

ANOOP CHITKARA, J.

1. Seeking transfer of the case No.NACT/210/2022 titled as M/s Bhvik Tiles vs. Millenneium Interlock Tiles” on medical grounds, from the Court of Judicial Magistrate Ist Class, Dabwali to Moga, petitioner has come up before this Court by filing the present petition under Section 407 CrPC, in the year 2023.

2. I have heard counsel for the petitioner and gone through the pleadings to ascertain that whether any formal notice is required to issue to the respondents and any reply is required from them or not and its analysis would lead to the following outcome.

3. Perusal of the file shows that when the present petition was filed on 20.03.2023, petitioner was in family way and in the advanced stage of her pregnancy and she was unable to travel due to her medical condition and because she had to look after her infant child also.

4. Perusal of the report of Doctor, dated 26.11.2022 and order of Coordinate Bench of this Court dated 29.05.2023, it reveals that petitioner gave birth to a child on 27.03.2023. It would be appropriate to refer to the relevant portion of the order dated 29.05.2023, which reads as follows:-

“Learned counsel for the petitioner further contends that absence of the petitioner on 19.04.2023 before the learned judicial Magistrate Ist Class, Dabwali was unintentional i.e. only on account of the fact that she has given birth to a child on 27.03.2023. He further contends that the petitioner is ready and willing to appear before the learned trial Court.”

5. Second leg of arguments on behalf of the petitioner is that petitioner also filed a complaint u/s 406, 420, 506 IPC qua the dispute of same amount as alleged in the cheque

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before the Court of Competent jurisdiction at Moga and referred complaint Annexure P-3. However, counsel fails to establish that any notice to respondent in the said complaint has been issued or not. Nor such reference has been made by the petitioner in the petition. As such, as of date, trial Court has not taken cognizance on the said complaint. Until the trial Court summon the respondent to face trial, till then such prayer cannot be entertained for transfer of case.

6. Given the discussion above, there is no merit in the ground taken for transfer of trial/case and no orders are required to be passed in the present petition and the same is disposed of. However, it is clarified that in case, petitioner feels uncomfortable or risky to travel, she may ask for exemption from the personal appearance before the trial Court by filing appropriate application. If she files any such application before the trial Court with an undertaking that her counsel shall attend each and every hearing and shall not ask for adjournment and she will not claim any prejudice at any stage of trial and shall appear as and when asked to appear personally before the trial Court, in that case, trial Court is requested to grant her exemption in accordance with law. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.09.2024
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.